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TESTIMONY OF SENATOR BILL MORROW 38TH SENATE DISTRICT OF CALIFORNIA

REGARDING
R.S. 2477 STATUS OF COYOTE CANYON ROAD
ANZA-BORREGO DESERT STATE PARK

Presented June 28, 2004 to the House Subcommittee
On National Parks, Recreation and Public Land
– St. George, Utah –

Good Morning.

I'm Bill Morrow, State Senator from California. I represent the 38th Senate District in my state – a district that encompasses Southern Orange County, North San Diego County and a portion of Riverside County.

While my Senate district does not specifically include the Anza Borrego Desert State Park (which consists of 640,000 acres of public land and is the largest state park in California), I grew up in that region, and have been a frequent park visitor all my life. Consequently, as a State Senator, I have involved myself in issues affecting the State Park as a matter of personal interest, as well as representing my constituent's who enjoy the recreational and other wholesome activities the State Park affords with our county and the wide Southern California area.

Apart from its natural beauty, the Park provides excellent recreational opportunities for Californians and visitors from other states. For people who enjoy the desert landscape, Anza-Borrego is without parallel.

Various trails and roads – some more than 150 years old – provide access to points of interests within the Park and, at one time, were the only means of traveling from the mining and agricultural settlements in the desert to the more populated areas in the west.

These roads existed and were being used long before the State of California obtained the land and created the Park. And these roads continue to serve important functions today. The establishment of the Park has not diminished the practical and historical importance of the roads; nor has it erased the public's attachment to them.

Today, I'd like to focus your attention on one particular road in Anza-Borrego, as it bears directly on the RS 2477 issues currently before you. The road runs through a portion of the Park known as Coyote Canyon in a north-south direction, connecting southwestern Riverside County with northeastern San Diego County.

Coyote Canyon Road has a long history, dating back to the 18th Century when the Spaniard Juan Bautista De Anza established the road as part of a trade and missionary route between Mexico and San Francisco. In fact, in 1996, the federal government designated the entire route, including that portion that runs through Coyote Canyon, as the "Juan Bautista National Historic Trail."

In the 19th and early 20th centuries, Coyote Canyon also served as a mining road, connecting gold, gypsum, and calcite mines to the larger transport corridors leading to San Diego and Los Angeles.

When California became a federal territory, Anza-Borrego (and Coyote Canyon) fell under the control of the United States government. During this time, public and private interests continued to use the road as before.

In the 1900s horses and wagons gave way to automobiles; and in 1924 the first car drove through Coyote Canyon. Then in 1933-1934, the Civilian Conservation Corp improved Coyote Canyon and turned it into a road that could more easily accommodate motor vehicles. This was especially important given the developing agricultural industries in Imperial, San Diego, and Riverside County's, all of which touch upon

what is now Anza-Borrego Desert State Park.

In 1937, the U.S. Government transferred a large portion of its Anza-Borrego holdings to the California Department of Parks and Recreation for purposes of establishing a desert state park. When the new park was created, it included Coyote Canyon Road.

Between 1937 and 1995, the road continued to be used by mining and agricultural interests, and by the general public as a through-way connecting key points within Anza-Borrego and beyond. During this same period, the road became a popular route for individuals touring through the desert in trucks and 4-wheel drive vehicles.

But in 1995, the California Department of Parks and Recreation decided to close off a 3.1-mile section in the middle of Coyote Canyon Road, alleging that the road created adverse environmental impacts on desert resources. As a result of the closure, the road lost its ability to serve the public. In its dismembered condition, it no longer connects points of interests or economic activity. It leads to nowhere except a locked gate.

My constituents and I believe that the decision of State Parks to close Coyote Canyon Road was not only misguided but in violation of RS 2477. Given the long-established – and continuous – public use of the road, and the fact that its alignment has never changed, we believe Coyote Canyon qualifies as an RS 2477 public road and is entitled to full protection under the law.

We are not alone in holding this position. Earlier this year, we submitted a letter to Office of the Legislative Counsel in Sacramento, asking that it provide us an opinion on two key questions:

- (1) Did Coyote Canyon Road meet the criteria for an RS 2477 road?
- (2) And (2) Did State Parks violate RS 2477 when it closed the middle portion of the road in 1995?

We are happy to report that the Legislative Counsel, upon reading our materials and conducting its own review, answered “YES” to both questions.

However, the road remains closed. The Legislative Counsel has no enforcement powers; and State Parks shows no interest in recognizing Coyote Canyon as an RS 2477 road and re-establishing it as a public thoroughfare.

There are those who would love to litigate this issue in either State or Federal Court, but the opinion of the California Legislative Counsel does not carry the weight of statutory law or case precedent. Further, what little case law exists outside of California is murky and subject to multiple interpretations.

To resolve this problem, federal legislation is needed. State and local agencies, as well as the courts, must be told that roads such as Coyote Canyon were established long ago and were to be protected by RS 2477. They are to remain in the public domain, and any attempt to close them or have them “reclaimed” by nature runs counter to Congressional intent.

To put it another way, the public road protections of RS 2477 served an important purpose when the Act was first adopted in 1866; the need for those protections has not gone away. Nevertheless, government agencies sometimes have a short memory. They need to be reminded where their power stops and the rights of the public take over.

RS 2477 needs to be updated and restated, so that these roads and trails continue to be part of the living history of the American West. They are no less valuable than any other highly-protected historical or cultural resource. The fact that they still serve important practical functions does not diminish this value. Rather, it only enhances it.

Thank you for your time and this opportunity to speak.

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